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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177804
Party	Plaintiff AMERIFIT, INC.
Correspondence Address	George A. Pelletier, Jr. Cantor Colburn LLP 20 Church Street22nd Floor Hartford, CT 06103 UNITED STATES DBruso@cantorcolburn.com, DMayhew@cantorcolburn.com, GPelletier@cantorcolburn.com
Submission	Motion to Compel Discovery
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Signature	/Daniel E. Bruso/
Date	04/11/2008
Attachments	Motion to Resume Proceedings.pdf (77 pages)(5630149 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No.	78971771
Filed:	September 11, 2006
Mark:	ESTROVIVE
Published in the Official Gazette:	May 15, 2007

AMERIFIT, INC.

Opposer,

v.

GEORGE K. ZOOROB

Applicant.

Opposition No: 91177804

**MOTION TO RESUME PROCEEDINGS
AND TO
COMPEL DISCOVERY RESPONSES**

In accordance with the provisions of 37 C.F.R. § 2.120(d)(2) and TBMP §§ 510.03 and 523.01, Opposer Amerifit, Inc.. (“Amerifit”) hereby moves to resume proceedings and to compel Applicant George K. Zoorob (“Applicant”) to respond to Amerifit’s pending discovery requests, without objection. In support of the instant Motion, Amerifit relies upon the pleadings filed to date and states as follows:

1. On or about June13, 2007, Amerifit commenced the instant proceeding by filing a Notice of Opposition with the Board.
2. Discovery opened on July 3, 2007.
3. On or about December 21, 2007, Amerifit served its First Set of Interrogatories (the “Interrogatories”), First Set of Requests For Production of Documents (the “Requests for

Production”) and First Set of Requests For Admission upon Applicant (the “Requests for Admission”). Copies of the Interrogatories, Requests for Production and Requests for Admissions are annexed hereto as Exhibits A, B and C, respectively.

4. Amerifit served the foregoing discovery via first class mail, postage prepaid. Accordingly, under TBMP §§ 113.05, 405.04(a), 406.04(a) and 407.03(a), Applicant’s responses were due no later than January 25, 2008.
5. Applicant failed to serve any responses to Amerifit’s discovery; accordingly, on or about February 4, 2008, Amerifit counsel contacted Applicant to request a response. Amerifit and Applicant agreed to extend the deadline for Applicant to respond to Amerifit’s discovery through and including February 21, 2008. Amerifit memorialized the parties’ agreement regarding Applicant’s discovery in a letter dated February 4, 2008, a copy of which is annexed hereto as Exhibit D.
6. On or about February 13, 2008, Applicant requested a second extension of the February 21, 2008, deadline for it to respond to Amerifit’s discovery. Amerifit and Applicant agreed to extend the deadline to February 29, 2008. *See* the e-mail dated February 13, 2008, from Applicant to Amerifit’s counsel, annexed hereto as Exhibit E.
7. During the period when Amerifit had agreed to extend the deadline, the parties were also engaging in settlement discussions. Accordingly, on February 15, 2008, Amerifit and Applicant agreed that:
 - a. Applicant’s responses to Amerifit’s discovery requests would be due March 28, 2008; and
 - b. The parties would stipulate to a 90-day suspension of proceedings.*See* the e-mail dated February 15, 2008, from Applicant to Amerifit’s counsel, annexed

hereto as Exhibit F, acknowledging and agreeing to the new discovery response deadline and the 90-day suspension.

8. On or about February 15, 2008, Amerifit filed a Motion for Suspension for Settlement With Consent.
9. The due date of Applicant's responses and the date when proceedings resumed allowed Amerifit time to explore settlement options, granted Applicant additional time to respond to Amerifit's discovery, and gave Amerifit sufficient time after the responses were received to review them and take such steps as might be required to seek further responses or documents. It also provided Amerifit with sufficient time to identify what would be needed during Amerifit's testimony period in the event that the parties were not able to settle.
10. On or about February 27, 2008, Applicant stated that he would terminate settlement negotiations if Amerifit did not respond to his settlement offer by February 28, 2008. *See* the e-mail from Applicant to Amerifit's counsel dated February 27, 2008, annexed hereto as Exhibit G.
11. Amerifit did not respond to Applicant by the Applicant's February 28, 2008, deadline.
12. The parties had additional discussions, which are memorialized in the e-mails annexed hereto as Exhibit H. However, at no time did Applicant request, nor did Amerifit agree, to extend the deadline for Applicant to respond to Amerifit's discovery beyond March 28, 2008. *Id.*
13. On or about March 27, 2008, Applicant requested a further 30-day extension of the discovery deadline. *See* the e-mail from Applicant to Amerifit's counsel dated March 27, 2008, annexed hereto as Exhibit I.

14. Amerifit had already extended the response deadline three (3) times, giving over two (2) months of extensions. A further extension would have impaired Amerifit's ability to examine the discovery responses and take action if further responses were needed. Moreover, it would have significantly decreased the time available to Amerifit to prepare for its testimony period. Accordingly, Amerifit declined Applicant's request. *See* the March 27, 2008, e-mail from Amerifit's counsel to Applicant, annexed hereto as Exhibit J.
15. After further correspondence, Amerifit stated that it would extend the discovery response deadline to April 1, 2008. Applicant objected, stating that he needed until at least April 8, 2008, to prepare his discovery responses. *See* the e-mails annexed hereto as Exhibit K.
16. Amerifit did not agree to the April 8, 2008, deadline; however, it did not take further action until it filed the instant Motion.
17. As of April 11, 2008, Applicant still has not responded to Amerifit's discovery. In other words, Applicant failed to respond to Amerifit's discovery by its own April 8, 2008, deadline, despite being fully aware that Amerifit had not agreed to further extensions, and that Amerifit intended to seek an order compelling responses.
18. No reason exists for Applicant's continued refusal to respond to Amerifit's discovery responses. Applicant was granted lengthy extensions, stated that it would respond by April 8, 2008, yet it has refused to do so.
19. Based on the foregoing, Amerifit seeks an order (1) resuming this proceeding, all pursuant to TBMP §510.03; (2) finding that Applicant has waived any objections to the merits of the Interrogatories and Requests for Production, all pursuant to TBMP §§ 403.03(a) and 406.04(a); and (3) compelling Applicant to respond to Amerifit's

Interrogatories and Requests for Production.¹

20. Amerifit avers that, pursuant to 37 C.F.R. 2.120(e) and TBMP § 523.02, prior to filing the instant Motion, its counsel made a good faith effort, by conference, to resolve with Applicant's counsel the issues presented in the instant Motion, and has been unable to reach agreement. In particular, and as set forth above, Amerifit granted no less than four (4) extensions of time for Applicant to respond to Amerifit's discovery. Amerifit also waited until after Applicant's self-proclaimed April 8, 2008, deadline had passed. Despite Amerifit's patience and its efforts to accommodate Applicant's request, Applicant has not provided any discovery responses.

WHEREFORE, Amerifit respectfully requests that the Board:

- a. Allow the instant Motion on its terms;
- b. Enter an order resuming proceedings;
- c. Enter an order (1) finding that Applicant has waived its objections to the merits of the Interrogatories and Requests for Production, all pursuant to TBMP §§ 403.03(a) and 406.04(a); and (2) compelling Applicant to respond to Amerifit's Interrogatories and Requests for Production; and

¹ Pursuant to TBMP § 523.01 Amerifit is not seeking to compel responses to its Requests for Admissions. Instead, pursuant to TBMP § 411.02 and Fed. R. Civ. P. 36, Applicant is deemed to have admitted each and every one of Amerifit's Requests For Admissions.

- d. Grant such other relief as it deems just and appropriate.

RESPECTFULLY SUBMITTED,
Amerifit, Inc.

Dated: April 11, 2008

BY: /Daniel E. Bruso/
Daniel E. Bruso, Esq.
George A. Pelletier, Jr., Esq.
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Bloomfield, Connecticut 06002-1353
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Fax: 860-286-0115

Attorneys for Opposer
Amerifit, Inc.

CERTIFICATE OF SERVICE

I, Daniel E. Brusco, Esq., counsel to Opposer Amerifit, Inc. in the above-captioned matter, certify that, on the 11th day of April, 2007, I served a copy of the foregoing to document, via first class mail, postage prepaid, upon:

George K. Zoorob
1111 East Fillmore St.
Colorado Springs, CO 80907

/Daniel E. Brusco/
Daniel E. Brusco

EXHIBIT A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No.	78971771
Filed:	September 11, 2006
Mark:	ESTROVIVE
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AMERIFIT, INC.

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GEORGE K. ZOOROB

Applicant.

Opposition No: 91177804

**OPPOSER'S FIRST SET OF INTERROGATORIES TO
APPLICANT GEORGE K. ZOOROB**

In accordance with the provisions of Rule 33 of the Federal Rules of Civil Procedure and TBMP § 405, Opposer Amerifit, Inc. ("Amerifit") hereby propounds the following interrogatories to Applicant George K. Zoorob ("Applicant"), to be answered fully and separately in writing and under oath by Applicant, all pursuant to Rule 33 of the Federal Rules of Civil Procedure and TBMP § 405. Responses shall conform in all respects to the Federal Rules of Civil Procedure and TBMP § 405.

Instructions and Definitions:

1. As used herein, the following definitions shall apply:
 - a. The term "Applicant" means George K. Zoorob, together with his principals, shareholders, members, officers, directors, employees, agents, representatives, predecessors, successors, attorneys and any business entity owned or controlled

by or under Applicant's direct or indirect control or management.

- b. The term "ESTROVIVE" or "Applicant's Mark" means the mark shown in Trademark Application No. 78/971771, filed September 11, 2006 and published for opposition May 15, 2007.
- c. The term "Amerifit Marks" means Amerifit's well-known trademark and service marks ESTROVEN, EXTROVEN BONE DENSITY, ESTROVEN ENERGY, ESTROVEN VITALITY and ESTROVEN MENOPAUSE TEST.
- d. "Documents" or "documents and things" shall mean those items enumerated in Rule 34 of the Federal Rules of Civil Procedure, and shall include, without limitation, writings, drawings, graphs, charts, photographs, models, prototypes, commercial goods, photo records, films, microfilms, microfiche, audio tapes, video tapes, magnetic media, optical media, and any other data compilations from which information can be obtained or translated, if necessary, by electronic devices into reasonably useable form. Any document or thing that differs from the original or another duplicate thereof because of additions and/or deletions, or any document that is a non-changed duplicate but which appears in a different file, shall be considered an original and shall be separately produced.
- e. Documents or documents and things include, but are not limited to, electronic mail ("email") and metatext.
- f. The term "identify" has the following meanings:
 - (1) When identifying a communication, "identify" means to provide:
 - (a) the exact words of the communication;
 - (b) the date of the communication;

- (c) the identity of any other entities who have any knowledge of the communication, particularly including the entity's address and telephone number; and
 - (d) the exact words and date of any response to the communication.
 - (2) When identifying an entity or individual, "identify" means to provide the entity's or individual's full name, business address, telephone number, the business in which the entity or individual is engaged and, if the entity is not a natural person, the person or persons at the entity who serve or served as Applicant's primary point of contact.
2. Each of the following interrogatories is deemed to be a continuing interrogatory, and demand is hereby made upon Applicant that, if at any later date Applicant obtains any additional facts or things or makes any assumptions or reaches any conclusions, opinions, or contentions that are different from those set forth in the answers to these interrogatories, then in such case the answers to said interrogatories shall be amended to fully set forth such further information.
3. If Applicant responds to these Interrogatories by specifying business records pursuant to Fed. R. Civ. P. 33(d), Applicant shall specify the business records in sufficient detail to permit Amerifit to locate and to identify, as readily as Applicant, the records from which the answer may be ascertained and shall permit Applicant reasonable opportunity to examine, audit or inspect such records and to make copies, compilations abstract or summaries. Production of the requested documents and things shall be as the materials are kept in the ordinary course of business or organized and labeled to correspond with the categories in the interrogatory and shall otherwise comply with the instruction

provided in Amerifit's First Request For Production of Documents to Applicant AA My Cars Space.com Inc.

4. If Applicant objects to any portion of an interrogatory, Applicant should respond to any portion of the interrogatory to which Applicant do not object.
5. If Applicant objects to any portion of an interrogatory on the ground that it is too broad, please provide all requested information that Applicant concedes are relevant or reasonably calculated to lead to the discovery of admissible evidence.
6. If Applicant objects to a request on the ground that the request constitutes an undue burden, please provide all information which can be produced without causing what in Applicant' opinion would be an undue burden.
7. To the extent that Applicant contemplates objecting to any portion of an interrogatory on the ground that the interrogatory requires the disclosure of trade secret or other confidential research, development, or commercial information, Applicant is directed to 37 C.F.R. § 2.116(g) and the TTAB's PROVISIONS FOR PROTECTING CONFIDENTIALITY OF INFORMATION REVEALED DURING BOARD PROCEEDING (the "Standardized Protective Order), which becomes effective August 31, 2007 and which applies to the instant proceeding.
8. Certain of these Interrogatories are broad in time period or subject so as to assure that all relevant, discoverable information is obtained. If Applicant finds it necessary to make objection to an interrogatory as overbroad, burdensome, etc., then Applicant should answer the interrogatory to the degree reasonable, and Applicant should contact undersigned counsel to discuss limits on the request.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each person that Applicant expects to call as an expert witness at the opposition, and for each such person state:

- a. the subject matter on which the expert is expected to testify;
- b. the substance of the facts and opinions to which the expert is expected to testify;
and
- c. a summary of the grounds for each such opinion.

INTERROGATORY NO. 2

State the first date that Applicant used Applicant's Mark and identify the use.

INTERROGATORY NO. 3

State all uses of Applicant's Mark by Applicant in trade or commerce within the United States and identify the dates of such use and the goods or services upon which Applicant's Mark was or is displayed.

INTERROGATORY NO. 4

State the date that Applicant first used Applicant's Mark in connection with:

- a. Vitamin supplements;
- b. Dietary supplements; and
- c. Nutritional Supplements.

INTERROGATORY NO. 5

Identify all vitamin, dietary and nutritional supplements that have been sold under Applicant's Mark.

INTERROGATORY NO. 6

Identify the first entity that purchased vitamin, dietary and nutritional supplements under Applicant's Mark and, for each sale, state the date of such sale.

INTERROGATORY NO. 7

State the monthly sales volume, in United States Dollars and units, for vitamin, dietary and nutritional supplements that have been sold under Applicant's Mark, since the date of first use and continuing through and including the date that Applicant responds to these interrogatories.

INTERROGATORY NO. 8

State the date that Applicant first used Applicant's Mark in connection with vitamin, dietary and nutritional supplements.

INTERROGATORY NO. 9

State whether Applicant manufactures, sells or offers to sell vitamin, dietary and nutritional supplements and, if your answer is anything other than an unqualified denial, identify any trademarks, trade names, corporate names, fictitious business names or other names under which Applicant manufactures, sells or offers to sell.

INTERROGATORY NO. 10

State the first date that Applicant became aware of any of the Amerifit Marks.

INTERROGATORY NO. 11

Identify the date of any and all communications between Applicant and Amerifit and, for each such communication, identify the parties to the communication and fully describe the contents of the communication.

INTERROGATORY NO. 12

Identify the date of any and all communications between Applicant and any third party regarding Applicant's Mark and, for each such communication, identify the parties to the communication and fully describe the contents of the communication.

INTERROGATORY NO. 13

Identify the date of any and all communications between Applicant and Martin Herman regarding Applicant's Mark and, for each such communication, identify the parties to the communication and fully describe the contents of the communication.

INTERROGATORY NO. 14

Identify all individuals involved in the selection of Applicant's Mark for use as a trademark by Applicant and, for each such individual, describe their involvement.

INTERROGATORY NO. 15

Identify all individuals involved in the decision to apply to register Applicant's Mark as a trademark with the United States Patent and Trademark Office and, for each such individual, describe their involvement.

INTERROGATORY NO. 16

State all other uses of Applicant's Mark of which Applicant is aware.

INTERROGATORY NO. 17

State all facts that refer or relate to any claim by Applicant that consumers associate Applicant's Mark with Applicant's services.

INTERROGATORY NO. 18

Identify and state the content of all documents that refer or relate to any claim by Applicant that consumers associate Applicant's Mark with Applicant's services.

INTERROGATORY NO. 19

State whether goods or services sold or to be sold under Applicant's Mark and goods or services provided under the Amerifit Marks, or any of them, are generally sold, marketed or distributed through the same channels and, if your answer is other than an unqualified affirmative, state the differences in the distribution and sales channels for the goods or services.

INTERROGATORY NO. 20

State whether goods or services sold or to be sold under Applicant's Mark and goods or services provided under the Amerifit Marks, or any of them, are generally similar in their appearance, sound, connotation, and commercial impression and, if your answer is other than an unqualified affirmative, state the differences between the appearance, sound, connotation and commercial impression of Applicant's Marks and Amerifit Marks.

INTERROGATORY NO. 21

State whether goods or services described in Applicant's application to register Applicant's Mark are similar to the goods or services described in Amerifit's applications to register the Amerifit Marks, or any of them, and, if your answer is other than an unqualified affirmative, state the differences.

INTERROGATORY NO. 22

State whether goods or services described in Applicant's application to register Applicant's Mark are similar to the goods or services described in Amerifit's actual use of the Amerifit Marks, or any of them, and, if your answer is other than an unqualified affirmative, state the differences.

INTERROGATORY NO. 23

State the trade channels through which Applicant markets, sells, offer to sell, advertise and distribute, or intends to market, sell, offer to sell, advertise and distribute, the goods or services described in Applicant's application to register Applicant's Mark.

INTERROGATORY NO. 24

For each good or service that Applicant markets, sells, offer to sell, advertise and distribute, or intends to market, sell, offer to sell, advertise and distribute, under Applicant's mark, state the range of prices and the average price of each good or service.

INTERROGATORY NO. 25

State the extent to which buyers purchasing or considering purchasing goods or services offered under Applicant's Marks engage or will in careful, sophisticated analyses prior to purchasing and describe the content of any such analyses.

INTERROGATORY NO. 26

State all attempts by Applicant to register Applicant's Mark within the United States, and the results of such attempts.

INTERROGATORY NO. 27

If you are withholding any documents based upon any privilege, list the author of the document, the recipient of the document, the date of the document, and a summary of the information contained in the document.

INTERROGATORY NO. 28

If you are withholding any information responsive to any interrogatory based upon any privilege, state of summary of the information and the basis for the claim of privilege.

INTERROGATORY NO. 29

To the extent that Applicant's response to any of the Requests for Admissions served contemporaneously herewith is anything other than an unqualified admission, describe in detail the facts upon which Applicant bases its response, identifying by number the specific request(s) for admission to which the facts stated relate.

INTERROGATORY NO. 30

Identify any instances in which consumers have inquired into or commented upon the similarity between Applicant's Mark and the Amerifit Marks, or any of them.

INTERROGATORY NO. 31

Identify the three (3) persons employed by or working on behalf of Applicant having the most knowledge of any allegations, denials or admissions made in the Notice of Opposition and/or the Answer filed in this above-captioned proceeding.

INTERROGATORY NO. 32

Identify all communications with any third party, other than counsel, regarding Applicant's Mark, the Amerifit Marks or the instant proceeding, and describe the communication.

INTERROGATORY NO. 33

Identify and state the contents of any agreements relating to Applicant's Mark, including without limitation any licenses.

INTERROGATORY NO. 34

To the extent that Applicant licenses or intends to license Applicant's Mark, identify the licensees and describe the business in which they engage.

INTERROGATORY NO. 35

State the business in which Applicant engages.

INTERROGATORY NO. 36

Describe fully the investigation Applicant conducted prior to stating the it neither denies nor agrees with the allegations in paragraphs 3 and 5 of the Notice of Opposition filed in this proceeding.

INTERROGATORY NO. 37

State the factual and legal bases, if any, for your denial of the allegations of paragraph 6 of the Notice of Opposition filed in this proceeding.

INTERROGATORY NO. 38

State the factual and legal bases, if any, for your denial of the allegations of paragraph 7 of the Notice of Opposition filed in this proceeding.

INTERROGATORY NO. 39

State the factual and legal bases, if any, for your denial of the allegations of paragraph 8 of the Notice of Opposition filed in this proceeding.

INTERROGATORY NO. 40

State the factual and legal bases, if any, for your denial of the allegations of paragraph 9 of the Notice of Opposition filed in this proceeding.

INTERROGATORY NO. 41

State the factual and legal bases, if any, for your denial of the allegations of paragraph 11 of the Notice of Opposition filed in this proceeding.

INTERROGATORY NO. 42

State the factual and legal bases, if any, for your denial of the allegations of paragraph 12 of the Notice of Opposition filed in this proceeding.

INTERROGATORY NO. 43

Describe the educational background and employment history of the person who executes the answers to these Interrogatories.

INTERROGATORY NO. 44

For each of the marks identified in paragraph 7 of the Answer to Opposition, state:

- a. Each application to register any of the marks in the United States;
- b. The date that each of the marks was first used;
- c. The date that each of the marks was first used in commerce in the United States;
- d. The owner of the marks;
- e. The licensees, if any, of the marks and the terms of any license;
- f. The goods and services upon which the marks are used;
- g. The marketing and distribution channels for the marks;
- h. The identity of the first entity to purchase goods or services under each of the marks and the date of the purchase;
- i. The monthly sales, in United States Dollars and units, of the goods and services sold under each of the marks, through and including the date that Applicant responds to these Interrogatories; and
- j. The extent to which consumers of products identified by the marks associate the products with a common manufacturer.

INTERROGATORY NO. 45

Identify all persons who participated or assisted in responding to these Interrogatories and, for each person, describe their involvement.

INTERROGATORY NO. 46

Identify all persons whose testimony Applicant intends to rely upon in this matter and state their anticipated testimony.

INTERROGATORY NO. 47

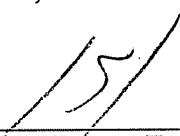
Identify all documents upon which Applicant intends to rely upon in this matter and state their contents.

INTERROGATORY NO. 48

Identify the "two... best trade mark [sic] attorneys here in Colorado Springs" referred to in Applicant's July 16, 2007, letter to George A. Pelletier, Jr., Esq., and for each of those attorneys, state fully all communications between Applicant and the attorneys and the dates of the communications.

Dated this 21st day of December, 2007.

RESPECTFULLY SUBMITTED,
Amerifit, Inc.

BY: 
Daniel E. Brusco, Esq.
George A. Pelletier, Esq.

Cantor Colburn LLP
55 Griffin Road South
Bloomfield, Connecticut 06002-1353
Phone: 860-286-2929
Fax: 860-286-0115

Attorneys for Opposer
Amerifit, Inc.

CERTIFICATE OF SERVICE

I, Daniel E. Brusio, Esq., counsel to Opposer Amerifit, Inc. in the above-captioned matter, certify that, on the 21st day of December, 2007, I served a copy of the foregoing to document, via first class mail, postage prepaid, upon:

George K. Zoorob
1111 East Fillmore St.
Colorado Springs, CO 80907



Daniel E. Brusio

EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No.	78971771
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AMERIFIT, INC.

Opposer,

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GEORGE K. ZOOROB

Applicant.

Opposition No: 91177804

**OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO
APPLICANT GEORGE K. ZOOROB**

In accordance with the provisions of Rule 34 of the Federal Rules of Civil Procedure and TBMP § 406, Opposer Amerifit, Inc. ("Amerifit") requests that Applicant George K. Zoorob ("Applicant"), produce the documents and things, identified below, that are in its possession, custody or control for inspection and copying. Production shall conform in all respects to the Federal Rules of Civil Procedure and TBMP § 406.

Instructions and Definitions:

1. As used herein, the following definitions shall apply:
 - a. The term "Applicant" means George K. Zoorob, together with his principals, shareholders, members, officers, directors, employees, agents, representatives, predecessors, successors, attorneys and any business entity owned or controlled by or under Applicant's direct or indirect control or management.

- b. The term “ESTROVIVE” or “Applicant’s Mark” means the mark shown in Trademark Application No. 78/971771, filed September 11, 2006 and published for opposition May 15, 2007.
 - c. The term “Amerifit Marks” means Amerifit’s well-known trademark and service marks ESTROVEN, EXTROVEN BONE DENSITY, ESTROVEN ENERGY and ESTROVEN VITALITY.
 - d. “Documents” or “documents and things” shall mean those items enumerated in Rule 34 of the Federal Rules of Civil Procedure, and shall include, without limitation, writings, drawings, graphs, charts, photographs, models, prototypes, commercial goods, photo records, films, microfilms, microfiche, audio tapes, video tapes, magnetic media, optical media, and any other data compilations from which information can be obtained or translated, if necessary, by electronic devices into reasonably useable form. Any document or thing that differs from the original or another duplicate thereof because of additions and/or deletions, or any document that is a non-changed duplicate but which appears in a different file, shall be considered an original and shall be separately produced.
 - e. Documents or documents and things include, but are not limited to, electronic mail (“email”) and metatext.
- 2. Production of the requested documents and things shall be as the materials are kept in the ordinary course of business or organized and labeled to correspond with the categories in this request.
 - 3. Whenever a requested document or thing or group of documents or things is kept or found in a file, notebook, or other organizer, attach thereto a copy of the organizer label,

number or title, or if kept unlabeled, produce an identification of the source of the document(s) or thing(s).

4. Each document and thing produced should be given a consecutive identification number reflecting the sequence in which the documents have been kept in the regular course of business (including documents withheld for any reason) and a letter or other symbol indicating the party that produced the document.
5. In producing the requested documents and things, Applicant is required to furnish all requested documents and things available to it, including, by way of illustration only, and not limited to, documents in the possession, custody or control of Applicant's attorneys or their consultants or investigators, or in the possession of Applicant's consultants, advisors, agents or associates.
6. As to any portion of any request which refers to documents or things that Applicant is aware of that were at one time within Applicant's possession, custody or control, but which are not now within or subject to Applicant's custody or control, identify each such document or thing in a manner sufficient to describe such for a subpoena *duces tecum* and give the name, telephone number and address of the person last known by Applicant to have been in possession, custody or control of the document or thing.
7. All document requests herein are intended to embrace within their scope both non-privileged documents and documents for which privilege is claimed. As to any document to which Applicant claims privilege, Applicant's response should state separately with respect to each such document or tangible thing as to which Applicant claims privilege:
 - a. the number of the request calling for the document;
 - b. the names of the authors;

- c. the date of the document;
 - d. the identification of all persons who have possessed, read, or reviewed the document at any time;
 - e. a brief description of the nature and subject matter of the document; and
 - f. the grounds for the claimed privilege.
8. If after responding to the following requests for production and before trial, Applicant, their counsel or anyone representing their interests, learn that any response, though correct when made, is no longer true or is in some material respect incomplete or incorrect, Applicant must seasonably supplement or amend its response to these requests and produce the requested information.
9. Document requests herein shall be deemed to include each document in the possession of or under the control of all past and present directors, officers, agents, representatives, employees, attorneys, and accountants of Applicant.
10. If Applicant objects to any portion of a request, please provide all documents requested by any portion of the request to which Applicant does not object.
11. If Applicant objects to a request on the ground that it is too broad, please provide all requested documents that Applicant concede are relevant or reasonably calculated to lead to the discovery of admissible evidence.
12. If Applicant objects to a request on the ground that the request constitutes an undue burden, please provide all documents that can be produced without causing what in Applicant's opinion would be an undue burden.
13. If Applicant is aware that a document or group of documents once existed, but has been lost, purged, mutilated, erased, destroyed, or otherwise rendered illegible or unavailable,

please provide the information requested in paragraph 7(A)-(E) of these Instructions, and also state when and by whom the document or group of documents was destroyed, the reason for the destruction of the document(s), and the circumstances under which the destruction of said document(s) occurred.

14. Pursuant to the law of and Federal court decisions throughout the United States, responsive documents in the possession of Applicant are required to be produced.
15. To the extent that Applicant contemplates objecting after August 31, 2007, to any portion of a request on the ground that the request requires the production of trade secret or other confidential research, development, or commercial information, Applicant is directed to 37 C.F.R. § 2.116(g) and the TTAB's PROVISIONS FOR PROTECTING CONFIDENTIALITY OF INFORMATION REVEALED DURING BOARD PROCEEDING (the "Standardized Protective Order), which becomes effective August 31, 2007 and which applies to the instant proceeding.

REQUESTS

REQUEST NO. 1

All documents and things that refer or relate to Applicant's use of Applicant's Mark in any form.

REQUEST NO. 2

All documents and things that refer or relate to the sales by Applicant of products displaying Applicant's Mark in any form.

REQUEST NO. 3

All documents and things that refer to or relate to Applicant's first use of Applicant's Mark in trade or commerce within the United States, including without limitation the manner in

which Applicant's Mark was or will be used, the identity of the entity using or that will be using Applicant's Mark and the dates of use.

REQUEST NO. 4

All documents and things that identify the goods, if any, upon which Applicant used or uses Applicant's Mark.

REQUEST NO. 5

All documents and things that identify the dates when Applicant used or intends to use Applicant's Mark in trade or commerce within the United States.

REQUEST NO. 6

Documents and things sufficient to establish the earliest date that Applicant sold or intends to sell goods displaying Applicant's Mark.

REQUEST NO. 7

All documents and things that refer or relate to the use in trade or commerce within the United States of marks containing the "ESTROVIVE" by entities other than Applicant, including without limitation any of Applicant's licensees.

REQUEST NO. 8

All documents and things that refer to Applicant's products using Applicant's Mark.

REQUEST NO. 9

All surveys, studies or other documents and things referring or relating to consumers' association of Applicant's Mark with Applicant's products.

REQUEST NO. 10

All surveys, studies or other documents and things referring or relating to the distinctiveness or similarity, or any other relationship, of the Amerifit Marks and Applicant's Mark relative to each other.

REQUEST NO. 11

All documents and things that refer to or relate to communication with third parties that relate to licensing or other agreements for the use of Applicant's Mark.

REQUEST NO. 12

All documents and things referring or relating to Applicant's use or intended use of Applicant's Mark in trade or commerce within the United States in connection with:

- a. Vitamin supplements;
- b. Dietary supplements; and
- c. Nutritional Supplements.

REQUEST NO. 13

All documents and things referring or relating to Applicant's use or intended use of Applicant's Mark in trade or commerce within the United States other than in connection with the goods identified in Request No. 12.

REQUEST NO. 14

All documents and things referring or relating to the use or intended use of Applicant's Mark as a trademark, trade name or service mark, in trade or commerce within the United States by entities other than Applicant, including licensees, and including without limitation the manner in which Applicant's Mark was used, the identity of the entity using Applicant's Mark and the dates of use.

REQUEST NO. 15

All documents provided to or received from any expert witness.

REQUEST NO. 16

All searches relating to any mark containing the term ESTROVIVE

REQUEST NO. 17

All documents referring or relating to the selection of any trademark containing Applicant's Mark by Applicant that is used or intended to be used in trade or commerce within the United States.

REQUEST NO. 18

All documents referring or relating to Applicant's decision to apply for registration of Applicant's Mark with the United States Patent and Trademark Office.

REQUEST NO. 19

All documents referring or relating to any allegation contained in Opposer's Notice of Opposition or Applicant's Response to Opposition in the above-captioned proceeding.

REQUEST NO. 20

All documents referring or relating to any trademark applications filed in the United States to protect any mark containing the term ESTROVIVE.

REQUEST NO. 21

All documents to and from the United States Patent and Trademark Office for trademark applications to register any mark containing the term ESTROVIVE.

REQUEST NO. 22

All documents referring or relating to any market studies, surveys, and/or evaluations for any trademark containing the term ESTROVIVE.

REQUEST NO. 23

Advertisements and packaging for all products displaying Applicant's Mark, including without limitation products displaying Applicant's Mark.

REQUEST NO. 24

Drawings for all products that Applicant sells, sold, or intends to sell displaying Applicant's Mark.

REQUEST NO. 25

All sales reports by month and year for products sold by Applicant displaying Applicant's Mark.

REQUEST NO. 26

Documents and things sufficient to establish the distribution and sales channels for Applicant's products that display Applicant's Mark.

REQUEST NO. 27

Documents and things that refer or relate to the target market for Applicant's products that display Applicant's Mark.

REQUEST NO. 28

All documents and things that mention, refer to or otherwise relate to communications between Applicant and Martin Herman.

REQUEST NO. 29

All documents and things that mention, refer to or otherwise relate to Applicant's claim that there is no likelihood of confusion, mistake or deception between the Amerifit Mark and Applicant's Mark.

REQUEST NO. 30

All documents and things that mention, refer to or otherwise relate to Applicant's investigation of the factual allegations in paragraphs 3 and 5 of the Notice of Opposition filed in this matter.

REQUEST NO. 31

All documents and things that mention, refer to or otherwise relate to Applicant's denial of the allegations in paragraph 6 of the Notice of Opposition filed in this matter.

REQUEST NO. 32

All documents and things that mention, refer to or otherwise relate to Applicant's denial of the allegations in paragraph 7 of the Notice of Opposition filed in this matter.

REQUEST NO. 33

All documents and things that mention, refer to or otherwise relate to Applicant's denial of the allegations in paragraph 8 of the Notice of Opposition filed in this matter.

REQUEST NO. 34

All documents and things that mention, refer to or otherwise relate to Applicant's denial of the allegations in paragraph 9 of the Notice of Opposition filed in this matter.

REQUEST NO. 35

All documents and things that mention, refer to or otherwise relate to Applicant's denial of the allegations in paragraph 11 of the Notice of Opposition filed in this matter.

REQUEST NO. 36

Documents and things sufficient to fully describe Applicant's "private label portfolio" as referred to in paragraph 10 of Applicant's Answer to Opposition.

REQUEST NO. 37

All documents and things that mention, refer to or otherwise relate to Applicant's denial of the allegations in paragraph 12 of the Notice of Opposition filed in this matter.

REQUEST NO. 38

For each of the marks identified in paragraph 7 of the Answer to Opposition, all documents and things that mention, refer to or otherwise relate to:

- a. Each application to register any of the marks in the United States;
- b. The date that each of the marks was first used;
- c. The date that each of the marks was first used in commerce in the United States;
- d. The owner of the marks;
- e. The licensees, if any, of the marks and the terms of any license;
- f. The goods and services upon which the marks are used;
- g. The marketing and distribution channels for the marks;
- h. The identity of the first entity to purchase goods or services under each of the marks and the date of the purchase;
- i. The monthly sales, in United States Dollars and units, of the goods and services sold under each of the marks, through and including the date that Applicant responds to these Interrogatories; and
- j. The extent to which consumers of products identified by the marks associate the products with a common manufacturer.

REQUEST NO. 39

All documents and things that Applicant intends to rely upon, or that Applicant intends to introduce into evidence in support of its claims or defenses.

REQUEST NO. 40

All documents that are responsive to Opposer's First Set of Interrogatories to Applicant, or that are mentioned or referred to in Applicants response to those Interrogatories.

REQUEST NO. 41

To the extent that any of Applicant's responses to Opposer's First Set of Requests For Admissions to Applicant are anything other than an unqualified admission, all documents and things that Applicant intends to rely upon to support its response.

REQUEST NO. 42

Documents sufficient to identify the business in which Applicant engages.

REQUEST NO. 43

Documents sufficient to establish whether Applicant manufactures, sells or offers to sell vitamin, dietary and nutritional supplements and any trademarks, trade names, corporate names, fictitious business names or other names under which Applicant manufactures, sells or offers to sell vitamin, dietary and nutritional supplements.

REQUEST NO. 44

Copies of all organization charts for any entity for which documents were produced in response to the foregoing Request.

REQUEST NO. 45

All documents and things that mention, refer to or otherwise relate to Applicant's denial of Opposer's claim that it will be damaged by registration of Applicant's Mark.

REQUEST NO. 46

Copies of all communications with any third party, other than counsel, regarding Applicant's Mark, Opposer, the Amerifit Mark or the instant proceeding, and describe the communication.

REQUEST NO. 47

Any and all communications between Applicant and Amerifit.

REQUEST NO. 48

Any and all communications between Applicant and any third party regarding Applicant's Mark.

REQUEST NO. 49

Any and all communications between Applicant and Martin Herman.

REQUEST NO. 50

All communications between Applicant and the "two... best trade mark [sic] attorneys here in Colorado Springs" referred to in Applicant's July 16, 2007, letter to George A. Pelletier, Jr., Esq.,

Dated this 21st day of December, 2007.

RESPECTFULLY SUBMITTED,
Amerifit, Inc.

BY:  _____

Daniel E. Brusco, Esq.

George A. Pelletier, Jr., Esq.

Cantor Colburn LLP
55 Griffin Road South
Bloomfield, Connecticut 06002-1353
Phone: 860-286-2929
Fax: 860-286-0115

Attorneys for Opposer
Amerifit, Inc.

CERTIFICATE OF SERVICE

I, Daniel E. Brusio, Esq., counsel to Opposer Amerifit, Inc. in the above-captioned matter, certify that, on the 21st day of December, 2007, I served a copy of the foregoing to document, via first class mail, postage prepaid, upon:

George K. Zoorob
1111 East Fillmore St.
Colorado Springs, CO 80907



Daniel E. Brusio

EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No.	78971771
Filed:	September 11, 2006
Mark:	ESTROVIVE
Published in the Official Gazette:	May 15, 2007

AMERIFIT, INC.

Opposer,

v.

GEORGE K. ZOOROB

Applicant.

Opposition No: 91177804

**OPPOSER'S FIRST SET OF
REQUESTS FOR ADMISSIONS TO GEORGE K. ZOOROB**

In accordance with the provisions of Rule 33 of the Federal Rules of Civil Procedure and TBMP § 407, Opposer Amerifit, Inc. ("Amerifit") hereby propound the following requests for admission to Applicant George K. Zoorob ("Applicant"), to be answered fully and separately in writing by Applicant, all pursuant to Rule 36 of the Federal Rules of Civil Procedure and TBMP § 407. Responses shall conform in all respects to the Federal Rules of Civil Procedure and TBMP § 407.

Instructions and Definitions:

1. As used herein, the following definitions shall apply:
 - a. The term "Applicant" means George K. Zoorob, together with his principals, shareholders, members, officers, directors, employees, agents, representatives, predecessors, successors, attorneys and any business entity owned or controlled

by or under Applicant's direct or indirect control or management.

- b. The term "ESTROVIVE" or "Applicant's Mark" means the mark shown in Trademark Application No. 78/971771, filed September 11, 2006 and published for opposition May 15, 2007.
- c. The term "Amerifit Marks" means Amerifit's well-known trademark and service marks ESTROVEN, ESTROVEN BONE DENSITY, ESTROVEN ENERGY and ESTROVEN VITALITY.
- d. "Documents" or "documents and things" shall mean those items enumerated in Rule 34 of the Federal Rules of Civil Procedure, and shall include, without limitation, writings, drawings, graphs, charts, photographs, models, prototypes, commercial goods, photo records, films, microfilms, microfiche, audio tapes, video tapes, magnetic media, optical media, and any other data compilations from which information can be obtained or translated, if necessary, by electronic devices into reasonably useable form. Any document or thing that differs from the original or another duplicate thereof because of additions and/or deletions, or any document that is a non-changed duplicate but which appears in a different file, shall be considered an original and shall be separately produced.
- e. Documents or documents and things include, but are not limited to, electronic mail ("email") and metatext.
- f. The term "identify" has the following meanings:
 - (1) When identifying a communication, "identify" means to provide:
 - (a) the exact words of the communication;
 - (b) the date of the communication;

(c) the identity of any other entities who have any knowledge of the communication, particularly including the entity's address and telephone number; and

(d) the exact words and date of any response to the communication.

(2) When identifying an entity or individual, "identify" means to provide the entity's or individual's full name, business address, telephone number, the business in which the entity or individual is engaged and, if the entity is not a natural person, the person or persons at the entity who serve or served as Applicant's primary point of contact.

2. Each of the following requests for admission is deemed to be a continuing request, and demand is hereby made upon Applicant that, if at any later date Applicant obtains any additional facts or things or makes any assumptions or reaches any conclusions, opinions, or contentions that are different from those set forth in the answers to these requests for admission, then in such case the answers to said requests for admission shall be amended to fully set forth such further information.
3. Applicant shall serve a written answer or objection addressed to the matter, signed by Applicant or their attorney.
4. Applicant shall state the reasons for any objection.
5. Applicant shall specifically deny the matter or set forth in detail the reasons why Applicant cannot truthfully admit or deny the matter.
6. Any denials shall fairly meet the substance of the requested admission.
7. When good faith requires that a party qualify an answer or deny only part of the matter of which an admission is requested, Applicant shall specify so much of the request as is true

and qualify or deny the remainder.

8. Applicant shall not give lack of information or knowledge as a reason for failure to admit or deny unless Applicant state that they have made reasonable inquiry and the information known or readily obtainable by Applicant is insufficient to admit or deny.
9. Applicant shall not object to any request because the request presents a genuine issue for trial.
10. To the extent that Applicant contemplates objecting after August 31, 2007, to any portion of an interrogatory on the ground that the interrogatory requires the disclosure of trade secret or other confidential research, development, or commercial information, Applicant is directed to 37 C.F.R. § 2.116(g) and the TTAB's PROVISIONS FOR PROTECTING CONFIDENTIALITY OF INFORMATION REVEALED DURING BOARD PROCEEDING (the "Standardized Protective Order), which becomes effective August 31, 2007 and which applies to the instant proceeding.

REQUESTS FOR ADMISSIONS

REQUEST NO. 1

That Applicant did not begin using Applicant's Mark in commerce within the United States at least as early as May 1, 2003.

REQUEST NO. 2

That Applicant did not first use Applicant's Mark at least as early as August 1, 2001.

REQUEST NO. 3

That goods sold or to be sold with Applicant's Mark are sold and offered for sale using distribution and marketing channels that are similar to those used to sell goods sold with the Amerifit Marks.

REQUEST NO. 4

That goods sold or to be sold with Applicant's Mark and goods sold with the Amerifit Marks, or any of them, are sold and offered for sale to the same or similar consumers.

REQUEST NO. 5

That goods sold or to be sold with Applicant's Mark and goods sold with the Amerifit Marks, or any of them, are intended for use in similar environments.

REQUEST NO. 6

That Opposer has never affirmatively acquiesced to Applicant's use of Applicant's Mark in trade or commerce in the United States.

REQUEST NO. 7

That Martin Herman has never affirmatively acquiesced to Applicant's use of Applicant's Mark in trade or commerce in the United States.

REQUEST NO. 8

That Martin Herman was not an employee, officer, director or representative of Opposer during the meetings referenced in Applicant's Answer to Opposition.

REQUEST NO. 9

That Applicant was aware of the Amerifit Marks when it filed the application to register Applicant's Mark.

REQUEST NO. 10

That Opposer owns common law rights in and to the Amerifit Marks.

REQUEST NO. 11

That Opposer owns the goodwill and general reputational rights in the Amerifit Marks.

REQUEST NO. 12

That Opposer used the Amerifit in commerce within the United States prior to May 1, 2003.

REQUEST NO. 13

That Applicant does not currently use Applicant's Mark as a trademark.

REQUEST NO. 14

That Applicant's use of Applicant's Mark is confusingly similar to the Amerifit Mark.

REQUEST NO. 15

That Applicant's use of Applicant's Mark will dilute the Amerifit Mark.

REQUEST NO. 16

That consumers are likely to encounter Applicant's Mark and the Amerifit Marks, or any of them, in a context giving rise to confusion, mistake or deception as to source, sponsorship or endorsement within the meaning of Section 2(d) of the Lanham Act.

REQUEST NO. 17

That Opposer will suffer damage and injury if Applicant is granted the requested registration of Applicant's Mark.

REQUEST NO. 18

That Opposer will suffer damage and injury if confusion, mistake or deception as to source, sponsorship or endorsement within the meaning of Section 2(d) of the Lanham Act arises with respect to Applicant's Marks, or any of them.

REQUEST NO. 19

That Opposer will suffer damage and injury if Applicant uses Applicant's Mark in a manner that is confusingly similar to the Amerifit Marks, or any of them.

REQUEST NO. 20

That all documents produced by Applicant in response to any discovery requests or interrogatories served by Opposer are true and authentic copies of the original documents.

REQUEST NO. 21

That Amerifit's Opposition to Applicant's Mark should be sustained, with Applicant's Mark being refused registration.

Dated this 21st day of December, 2007.

RESPECTFULLY SUBMITTED,
Amerifit, Inc.

BY: _____

Daniel E. Bruso, Esq.
George A. Pelletier, Jr. Esq.

Cantor Colburn LLP
55 Griffin Road South
Bloomfield, Connecticut 06002-1353
Phone: 860-286-2929
Fax: 860-286-0115

Attorneys for Opposer
Amerifit, Inc.

CERTIFICATE OF SERVICE

I, Daniel E. Brusco, Esq., counsel to Opposer Amerifit, Inc. in the above-captioned matter, certify that, on the 21st day of December, 2007, I served a copy of the foregoing to document, via first class mail, postage prepaid, upon:

George K. Zoorob
1111 East Fillmore St.
Colorado Springs, CO 80907



Daniel E. Brusco

EXHIBIT D



Cantor Colburn LLP
Intellectual Property Attorneys

Daniel E. Bruso
dbruso@cantorcolburn.com

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20 Church Street
22nd Floor
Hartford, CT 06103
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DETROIT
201 W. Big Beaver Road
Suite 1101
Troy, MI 48064
phone: 248-524-2300
fax: 248-524-2700

www.cantorcolburn.com

VIA FEDERAL EXPRESS AND E-MAIL gkzoorob@hotmail.com

February 4, 2008

Mr. George K. Zoorob
1111 E. Fillmore Street
Colorado Springs, CO 80918

Re: U.S. Trademark Oppositions by Amerifit, Inc.
91177799 ESTROVIVE
91177804 ESTRVIVE

Dear Mr. Zoorob:


I write to follow up on the status of your responses to Amerifit's First Request for Production of Documents, First Set of Interrogatories and Requests for Admission (collectively, the "Discovery"). This letter follows our February 4, 2008, telephone conferences.

This letter confirms that Amerifit agrees to extend the deadline for you to respond to the Discovery thirty (30) days, from January 21, 2008, through and including February 21, 2008.

Additionally, this letter confirms your agreement to extend the start of all testimony periods two (2) months.

Thank you for your attention to these matters.

Very truly yours,



Daniel E. Bruso

Cc: George A. Pelletier, Jr., Esq.

EXHIBIT E

Bruso, Daniel

From: George Zoorob [gkzoorob@hotmail.com]
Sent: Wednesday, February 13, 2008 7:52 PM
To: Bruso, Daniel
Subject: RE: TTAB Proceedings

Dear Mr. Bruso:

Just came back to my hotel room after a long night. However I decided to answer you before I go to bed.

Thanks for agreeing to a February 29,2008 extension. Please go ahead and file it.

As far as the settlement proposal, my suggestion is rather than 30 days suspension,

A motion to extend for 30 days.

I have seen it in the past where the TTAB had no problems with extending everything accordingly,(only 30 days at a time) until the parties have reached an agreement for settlement.

Obviously it does not take that long to know whether your client wants to settle this matter amicably, or to continue spending major money on this matter. I am sure attorney fees alone by the time we finish the interrogatories, and the admissions is going to exceed \$25,000.

So with that in mind, knowing that you want your client best interest, I am sure of how will you advise them.

Again thank you for your e-mail, and I look forward to settling this matter soon if your client is in favor.

Sincerely,

George

George K. Zoorob,Ph.D, G.G.(GIA), N.J.A.

Tel: 719.633-5900

Fax: 719.633-5959

Cell: 719.964.4367

4/11/2008

EXHIBIT F

Bruso, Daniel

From: Bruso, Daniel
Sent: Friday, February 15, 2008 4:38 PM
To: 'George Zoorob'
Subject: RE: TTAB Proceedings

Thank you. We'll take care of it.

Very truly yours,

DANIEL E. BRUSO
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103-3207
(860) 286-2929 (Telephone)
(860) 286-0115 (Telecopier)
DBruso@CantorColburn.com
www.CantorColburn.com

PLEASE NOTE THE CHANGE IN OUR ADDRESS

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-----Original Message-----

From: George Zoorob [mailto:gkzoorob@hotmail.com]
Sent: Friday, February 15, 2008 4:00 PM
To: Bruso, Daniel
Subject: RE: TTAB Proceedings

Mr. Bruso:

That's fine , please go ahead.You can reach me via e-mail if you have any questions.

Sincerely,

George

George K. Zoorob,Ph.D, G.G.(GIA), N.J.A.

Tel: 719.633-5900

Fax: 719.633-5959

Cell: 719.964.4367

Subject: RE: TTAB Proceedings
Date: Fri, 15 Feb 2008 11:29:22 -0500
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

Mr. Zoorob,

I am writing to follow up on our February 15, 2008, telephone conversation. This e-mail confirms that we agreed that your discovery responses will be due March 28, 2008, and that you consent to extending the start of the testimony periods 90 days.

I will file the appropriate paperwork. In the meantime, please feel free to contact me if any questions arise.

4/11/2008

Very truly yours,

DANIEL E. BRUSO
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103-3207
(860) 286-2929 (Telephone)
(860) 286-0115 (Telecopier)
DBruso@CantorColburn.com
www.CantorColburn.com

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-----Original Message-----

From: George Zoorob [mailto:gkzoorob@hotmail.com]

Sent: Thursday, February 14, 2008 7:14 PM

To: Bruso, Daniel

Subject: RE: TTAB Proceedings

Mr. Bruso:

I am very disappointed with you for not understanding my position while I am away, and do not have access to a trademark attorney to get info regarding the suspension process, and how will it effect future proceedings.

Anyhow I do understand where you are coming from, either you push your way, or you are going to be upset.

I have seen so many oppositions before, they do not scare me at all, especially when I know I am right and in this situation I know I am right, and I will prove it, sooner than later.

I was trying all this time to cooperate with you, and try to resolve this matter amicably, without costing your client and myself major money.

However I understand from your e-mail that you want to continue the hard way, so please welcome to my world.

My staff is currently researching all the documents that you asked for, and answering your admissions, and we will send them out on February 29, 2008.

Effective immediately, we will go ahead and instruct the survey company to continue our surveys and finish it ASAP, we'll get our witnesses ready, and we will fight all the way, and I assure you that we will prevail, because so far no one in our survey group or any of our expert trademark witnesses, along with the best in the dietary supplements industry, thought that we have any similarities, especially when you use the black cohosh in your product as the main ingredient, and we use completely different ingredients, ESSENTIAL OILS only. WE WILL PROVE IT.

Also there is no resemblance in sound, pronunciation, or spelling of our names VS ESTROVEN.

I am going to be the nice guy this time, and give you a call tomorrow to discuss this matter further before we jump to conclusions, to see if there is anything else I can do to assist you in resolving this

4/11/2008

matter.

Please advise as to when will be a good time for you, so that I can call you at your office, please remember the seven hours difference between US Eastern time, and Europe. Will 11:00 AM your time be good for you?

Sincerely,
George

George K. Zoorob, Ph.D, G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

Subject: Re: TTAB Proceedings
Date: Thu, 14 Feb 2008 17:41:11 -0500
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

Mr. Zoorob,

Your refusal to cooperate is disappointing.

Amerifit will file pleadings with the TTAB indicating that you will respond to the discovery by February 29, 2008. Amerifit will also request that the start of the testimony periods be extended 60 days so that it may evaluate your responses and move to compel, if necessary. Finally, we will move to suspend pending disposition of our other Motions. The suspension will not affect the February deadline.

Please feel free to contact me if you care to discuss. In the meantime, we look forward to receiving your discovery responses, documents and things.

Very truly yours,

Daniel E. Bruso
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103
(860) 286-2929
(860) 286-0115 (Fax)
DBruso@cantorcolburn.com

Sent from my Blackberry

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TELEPHONE OR E-MAIL IMMEDIATELY, AND WE WILL ARRANGE FOR THE RETURN TO CANTOR COLBURN LLP OF ANY PRINTED COPIES.

-----Original Message-----

From: George Zoorob <gkzoorob@hotmail.com>
To: Bruso, Daniel <DBruso@CantorColburn.com>
Sent: Thu Feb 14 17:29:54 2008
Subject: RE: TTAB Proceedings

Dear Mr. Bruso:

Thank you for answering my e-mail from your cell phone, I do appreciate your promptness.

Obviously when I am out of the country, I do not have the same easy access to legal council as I do back home.

So for now please go ahead and extend the response period till Feb, 29,2008. Also please continue to discover the possibility of settlement with your client.

If it is a positive response, then we do not need all of the rest.

So if you come up with an amicable figure for settlement for the two trade mark applications, then all what we need is a mutual withdrawal agreement, and the whole thing is put to bed.

However , if the answer to that was negative, then you are right it will take lots of time and money to finalize it, and then you need extensions for everything .

So in brief, this is only a trade mark application case and not a murder case, so it a matter of a simple decision by your client to avoid all of the delays and the huge amount of expenses involved in litigation.

As far as the 30 days abandonment, I am not comfortable with it right now,since I am not familiar with the process and do not have a council to talk to, however , we might not need anything if this case settles.

Please advise of your position, and we will act accordingly.

Sincerely,
George

George K. Zoorob,Ph.D, G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

Subject: Re: TTAB Proceedings
Date: Wed, 13 Feb 2008 20:36:48 -0500
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

Mr. Zoorob,

The problem with rxtending the Testimony periods 30 days is that we need to postpone the start of the period. That is why I proposed the 30 day suspension. That will allow us time to discuss settlement.

The alternative will be for Amerifit to move to alter the start of the Testimony period based on our agreement to allow you additional time to respond. This is more

time consuming, and won't allow us to stop the litigation process pending settlement negotiations.

The 30 day suspension seems to offer more possibilities.

What are your thoughts?

Very truly yours,

Daniel E. Bruso
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103
(860) 286-2929
(860) 286-0115 (Fax)
DBruso@cantorcolburn.com

Sent from my Blackberry

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-----Original Message-----

From: George Zoorob <gkzoorob@hotmail.com>
To: Bruso, Daniel <DBruso@CantorColburn.com>
Sent: Wed Feb 13 19:51:48 2008
Subject: RE: TTAB Proceedings

Dear Mr. Bruso:

Just came back to my hotel room after a long night. However I decided to answer you before I go to bed.

Thanks for agreeing to a February 29, 2008 extension. Please go ahead and file it. As far as the settlement proposal, my suggestion is rather than 30 days suspension, A motion to extend for 30 days.

I have seen it in the past where the TTAB had no problems with extending everything accordingly, (only 30 days at a time) until the parties have reached an agreement for settlement.

Obviously it does not take that long to know whether your client wants to settle this matter amicably, or to continue spending major money on this matter. I am sure attorney fees alone by the time we finish the interrogatories, and the admissions is going to exceed \$25,000.

So with that in mind, knowing that you want your client best interest, I am sure of how will you advise them.

Again thank you for your e-mail, and I look forward to settling this matter soon if

your client is in favor.

Sincerely,
George

George K. Zoorob, Ph.D, G.G.(GIA), N.J.A.

Tel: 719.633-5900

Fax: 719.633-5959

Cell: 719.964.4367

EXHIBIT G

Bruso, Daniel

From: George Zoorob [gkzoorob@hotmail.com]
Sent: Wednesday, February 27, 2008 5:52 PM
To: Bruso, Daniel
Subject: RE: settlement Proposal

Dear Mr. Bruso:

Just landed in the US, checked my e-mail , did not find anything from you Re: Settlement proposal.
Do I understand that your client have decided not to settle this matter.

I will contact you tomorrow,after the Jet lag is over , and discuss with you this matter,and then continue full force with our part.
After that we will not settle until completion.

what will be a good time to call you? please advise.
Sincerely,

George

George K. Zoorob,Ph.D, G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

4/11/2008

EXHIBIT H

Bruso, Daniel

From: George Zoorob [gkzoorob@hotmail.com]
Sent: Wednesday, March 12, 2008 11:46 AM
To: Bruso, Daniel
Subject: RE: settlement Proposal

Dear Mr. Bruso:

After your last e-mail dated Feb. 27. I decided to wait may be the person that was responsible for legal matters at Amerifit is back.

Today and after 15 days, I did not hear from you. Please go ahead and update me as to whether or not your client wants to settle this matter or not.

I am at the airport heading to California for Expo West. I will be back in town Sunday the 16th.

You can reach me by phone at my cell #719-964-4367, or e-mail me, and I can either answer back from my laptop or my cell phone.

Thanks for your cooperation.

George

George K. Zoorob, Ph.D, G.G.(GIA), N.J.A.

Tel: 719.633-5900

Fax: 719.633-5959

Cell: 719.964.4367

Subject: Re: settlement Proposal
Date: Wed, 27 Feb 2008 18:59:36 -0500
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

Mr. Zoorob,

Since we last spoke, I learned that the person responsible for legal matters has been out of the country.

I am out of the office tomorrow. I should be in on Friday.

Your threats to proceed are not productive. Amerifit is fully prepared to litigate this matter, and is not intimidated by rhetoric.

Amerifit will respond to your offer in due course.

Very truly yours,

Daniel E. Bruso
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103
(860) 286-2929
(860) 286-0115 (Fax)
DBruso@cantorcolburn.com

Sent from my Blackberry

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-----Original Message-----

From: George Zoorob <gkzoorob@hotmail.com>
To: Bruso, Daniel <DBruso@CantorColburn.com>
Sent: Wed Feb 27 17:52:05 2008
Subject: RE: settlement Proposal

Dear Mr. Bruso:

Just landed in the US, checked my e-mail , did not find anything from you Re: Settlement proposal.
Do I understand that your client have decided not to settle this matter.

I will contact you tomorrow,after the Jet lag is over , and discuss with you this matter,and then continue full force with our part. After that we will not settle until completion.

what will be a good time to call you? please advise.
Sincerely,

George

George K. Zoorob,Ph.D, G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

EXHIBIT I

Bruso, Daniel

From: George Zoorob [gkzoorob@hotmail.com]
Sent: Thursday, March 27, 2008 12:20 PM
To: Bruso, Daniel
Subject: RE: settlement Proposal

Mr. Bruso:
It has been a month since your last e-mail where the person for legal matters at Amerifit was out of the country. Please bear in mind that we went ahead with the suspension and the extension of the interrogatories, also I put-off all the surveys, and the due diligence work for the purpose of settlement.
It has been a month and I did not hear from you.
I would like to propose that we settle this matter ASAP, so that we both your client and myself will avoid lot of time and money. All what I am asking is for your client to pay my actual expenses accrued for these two trade marks, which is \$16,787.00. This cost includes all the market study, the focus group, the artwork, the graphic design, for the boxes , the brochures, and the brokers sheets, and the applications fee. Once we agree to the figure then I will withdraw the applications.
Based on this proposal, please go ahead and extend the interrogatories, and the suspension period for another 30 days, hopefully during that time you will have the time to discuss with your client , and arrive to a settlement.
I am in Atlanta, and will be back in few days. I can be reached at my cell number . So please call with any questions or suggestions.
Awaiting your answer,
Sincerely,
George

George K. Zoorob, G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

Subject: Re: settlement Proposal
Date: Wed, 27 Feb 2008 18:59:36 -0500
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

Mr. Zoorob,

Since we last spoke, I learned that trhe person responsible for legal matters has been out of the country.

I am out of the office tomorrow. I should be in on Friday.

Your threats to proceed are not productive. Amerifit is fully prepared to litigate this matter, and is not intimidated by rhetoric.

Amerifit will respond to your offer in due course.

Very truly yours,

Daniel E. Bruso
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103
(860) 286-2929

4/11/2008

(860) 286-0115 (Fax)
DBruso@cantorcolburn.com

Sent from my Blackberry

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-----Original Message-----

From: George Zoorob <gkzoorob@hotmail.com>
To: Bruso, Daniel <DBruso@CantorColburn.com>
Sent: Wed Feb 27 17:52:05 2008
Subject: RE: settlement Proposal

Dear Mr. Bruso:

Just landed in the US, checked my e-mail , did not find anything from you Re: Settlement proposal.
Do I understand that your client have decided not to settle this matter.

I will contact you tomorrow,after the Jet lag is over , and discuss with you this matter,and then continue full force with our part. After that we will not settle until completion.

what will be a good time to call you? please advise.
Sincerely,

George

George K. Zoorob,Ph.D, G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

4/11/2008

EXHIBIT J

Bruso, Daniel

From: Bruso, Daniel
Sent: Thursday, March 27, 2008 1:08 PM
To: 'George Zoorob'
Subject: RE: settlement Proposal

Mr. Zoorob,

On February 15, 2008, you sent me an e-mail confirming your agreement that (i) we would suspend for settlement negotiations; and (ii) your discovery responses would be due March 28, 2008. The March 28, 2008, deadline followed your request for additional time.

You terminated settlement discussions on February 28, 2008. In particular, in an e-mail dated February 27, 2008, you told me that "I will contact you tomorrow, after the Jet lag is over, and discuss with you this matter, and then continue full force with our part. After that we will not settle until completion." We did not settle; accordingly, there is no basis for your suggestion that you somehow delayed preparing your discovery responses. Indeed, you repeatedly threatened to perform your survey and otherwise prosecute this action.

We do not agree to extend any discovery deadlines, and will not take any action to do so. We expect to receive your discovery responses by close of business tomorrow.

With regard to settlement, your latest settlement demand is significantly higher than what we had been discussing. It includes expenses that you appear to have incurred after this case was filed. This was your own decision, the costs of which will not be passed on to Amerifit.

I will convey your settlement offer to Amerifit and will notify you of any response that they may have. However, this will not extend or otherwise delay your discovery responses.

This letter is sent without waiver or prejudice of any rights held by our client.

Very truly yours,

DANIEL E. BRUSO
 Cantor Colburn LLP
 20 Church Street
 22nd Floor
 Hartford, CT 06103-3207
 (860) 286-2929 (Telephone)
 (860) 286-0115 (Telecopier)
 DBruso@CantorColburn.com
 www.CantorColburn.com

PLEASE NOTE THE CHANGE IN OUR ADDRESS

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-----Original Message-----

From: George Zoorob [mailto:gkzoorob@hotmail.com]
Sent: Thursday, March 27, 2008 12:20 PM
To: Bruso, Daniel
Subject: RE: settlement Proposal

Mr. Bruso:

4/11/2008

It has been a month since your last e-mail where the person for legal matters at Amerifit was out of the country. Please bear in mind that we went ahead with the suspension and the extension of the interrogatories, also I put-off all the surveys, and the due diligence work for the purpose of settlement.

It has been a month and I did not hear from you.

I would like to propose that we settle this matter ASAP, so that we both your client and myself will avoid lot of time and money.

All what I am asking is for your client to pay my actual expenses accrued for these two trade marks, which is \$16,787.00.

This cost includes all the market study, the focus group, the artwork, the graphic design, for the boxes , the brochures, and the brokers sheets, and the applications fee. Once we agree to the figure then I will withdraw the applications.

Based on this proposal, please go ahead and extend the interrogatories, and the suspension period for another 30 days, hopefully during that time you will have the time to discuss with your client , and arrive to a settlement.

I am in Atlanta, and will be back in few days. I can be reached at my cell number . So please call with any questions or suggestions.

Awaiting your answer,

Sincerely,

George

George K. Zoorob, G.G.(GIA), N.J.A.

Tel: 719.633-5900

Fax: 719.633-5959

Cell: 719.964.4367

Subject: Re: settlement Proposal

Date: Wed, 27 Feb 2008 18:59:36 -0500

From: DBruso@CantorColburn.com

To: gkzoorob@hotmail.com

Mr. Zoorob,

Since we last spoke, I learned that trhe person responsible for legal matters has been out of the country.

I am out of the office tomorrow. I should be in on Friday.

Your threats to proceed are not productive. Amerifit is fully prepared to litigate this matter, and is not intimidated by rhetoric.

Amerifit will respond to your offer in due course.

Very truly yours,

Daniel E. Bruso

Cantor Colburn LLP

20 Church Street

22nd Floor

Hartford, CT 06103

(860) 286-2929

(860) 286-0115 (Fax)

DBruso@cantorcolburn.com

Sent from my Blackberry

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-----Original Message-----

From: George Zoorob <gkzoorob@hotmail.com>
To: Bruso, Daniel <DBruso@CantorColburn.com>
Sent: Wed Feb 27 17:52:05 2008
Subject: RE: settlement Proposal

Dear Mr. Bruso:

Just landed in the US, checked my e-mail , did not find anything from you Re: Settlement proposal.
Do I understand that your client have decided not to settle this matter.

I will contact you tomorrow,after the Jet lag is over , and discuss with you this matter,and then continue full force with our part. After that we will not settle until completion.

what will be a good time to call you? please advise.
Sincerely,

George

George K. Zoorob,Ph.D, G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

EXHIBIT K

Bruso, Daniel

From: George Zoorob [gkzoorob@hotmail.com]
Sent: Friday, March 28, 2008 6:04 PM
To: Bruso, Daniel
Cc: dennis hartley
Subject: RE: settlement Proposal

Mr. Bruso:

With all the concessions I gave you so far including a 60 days suspension, and you feel that you cannot give me a 7 or 8 days window to be able to review and answer and produce all the documents requested, I feel not only being used, tricked but also cheated, and been taken advantage of by a professional.

However do whatever you please, I am not intimidated by your threats.

We will see what the Bar association will do about your practices.

I will hire an attorney when I come back to town handle all your schemes of unlawful conduct with the public.

Sincerely,
George

c.c.Dennis Hartley
Attorney at law

Subject: Re: settlement Proposal
Date: Fri, 28 Mar 2008 15:22:23 -0400
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

Mr. Zoorob,

Amerifit will examine your discovery responses before conducting further discussions. We have granted several extensions, and are unwilling to grant anything beyond April 1.

If we do not receive executed, responsive answers that fully comply with TTAB rules by April 1, we may proceed as we deem appropriate.

Your suggestion that being out of the office somehow constitutes a basis for another extension is incorrect. You have had several months to respond. This is simply the latest delaying tactic.

Very truly yours,

Daniel E. Bruso
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103
(860) 286-2929
(860) 286-0115 (Fax)
DBruso@cantorcolburn.com

Sent from my Blackberry

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-----Original Message-----

From: George Zoorob <gkzoorob@hotmail.com>
To: Bruso, Daniel <DBruso@CantorColburn.com>
Sent: Fri Mar 28 15:13:32 2008
Subject: RE: settlement Proposal

Mr. Bruso:

This a perfect example how misunderstanding occurs. I never asked you for Amerifit to abandon its registration. Yet you understood that we are asking them to abandon their trademarks.

So please read my e-mail one more time.

I asked you to present my offer, and if my offer was accepted, then we will withdraw , not abandon my applications without prejudice you withdraw your opposition.

So you say Amerifit did not accept my offer. Is there a counter proposal?.

Thanks

George

George K. Zoorob, Ph.D,G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

Subject: Re: settlement Proposal
Date: Fri, 28 Mar 2008 14:51:38 -0400
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

Mr. Zoorob,

Your settlement offer is unacceptable. Amerifit has no intention of abandoning its registrations.

Very truly yours,

Daniel E. Bruso
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103
(860) 286-2929
(860) 286-0115 (Fax)
DBruso@cantorcolburn.com

4/11/2008

Sent from my Blackberry

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-----Original Message-----

From: George Zoorob <gkzoorob@hotmail.com>
To: Bruso, Daniel <DBruso@CantorColburn.com>
Sent: Fri Mar 28 12:38:37 2008
Subject: RE: settlement Proposal

Mr. Bruso:

You are right , we do not need to engage in any unfruitful debates.
Please note the following:

-It is humanly impossible to answer your interrogatories by April 1st. due to the fact I am out of town busy in a huge conference,where I am the one of the main speakers, and do not have your package with me.The earliest it can be done if we need to do it is by April 7th or 8th.

-Please go ahead and contact Amerifit , and present my settlement proposal, that way if we were able to settle it, then I do not need to spend this great precious time for nothing. If we were not able to arrive to a settlement, then we will be very happy to answer and collect all the documents requested by the above dates.

-As far as the abandonment, we are not planning on that either way, if we arrive to a settlement , we will mutually withdraw our applications ,obviously for a monetary sum to cover our expenses, without prejudice, and you will withdraw and dismiss your opposition.

We do not need any time to sell any stock or products what so ever, because since your opposition,and dragging of time, we decided to use a different name for our client, the only thing we need to do is destroy all the materials,packages, brochures, brokers materials and web site info ,also anything to do with the 2 marks.

I will wait for your response, hopefully we will be able to resolve this matter.
Sincerely,
George

George K. Zoorob, Ph.D,G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

Subject: RE: settlement Proposal
Date: Thu, 27 Mar 2008 16:43:01 -0400
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

4/11/2008

Mr. Zoorob,

There is no point in our engaging in pointless debate.

Suspending a case does not relieve a party of its obligation to respond to discovery. Moreover, I didn't agree to postpone the deadline.

It is possible to undertake two actions simultaneously. Discussing settlement does not mean that you couldn't prepare your discovery responses.

You are requesting information that is protected by the attorney-client privilege. Amerifit does not waive the privilege, and will not provide you with this information.

Amerifit served its discovery on December 21, 2008. Your responses were due January 21, 2008. Amerifit agreed to various extensions, with the last being the March 28, 2008, deadline identified in my February 15, 2008, e-mail. Amerifit will wait until April 1, 2008, after which it will take such action as it deems necessary to prosecute this matter.

At this point, Amerifit has not authorized payment of any monies. Amerifit will agree to dismiss its Opposition if you agree to abandon the applications.

Amerifit might allow a reasonable period of time for you to use your existing stock of packaging and promotional materials, after which you would need to select new marks that are not confusingly similar to Amerifit's Mark. This would allow you to use up your stock and eliminate the need for payment. If this is an option that you would consider, please let me know and I will attempt to obtain the client's consent. Alternatively, I look forward to receiving your responses on or before April 1, 2008.

Very truly yours,

DANIEL E. BRUSO
Cantor Colburn LLP
20 Church Street
22nd Floor
Hartford, CT 06103-3207
(860) 286-2929 (Telephone)
(860) 286-0115 (Telecopier)
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PLEASE NOTE THE CHANGE IN OUR ADDRESS

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-----Original Message-----

From: George Zoorob [<mailto:gkzoorob@hotmail.com>]
Sent: Thursday, March 27, 2008 4:24 PM
To: Bruso, Daniel
Subject: RE: settlement Proposal

4/11/2008

Mr. Bruso:

I just received your e-mail few minutes before my meeting.

Obviously, when parties are negotiating all preceding will stop until they agree or disagree, otherwise can you tell me why we put everything on suspension for 60 days?, wasn't it in order to finish our negotiations?.

You can deny all you want to, my understanding is :we were trying to settle this case, and obviously your intentions were never to even discuss it with your client, just to play on words, and now denying even cooperation to settle this case.

If what I just stated was not true, will you please tell me what was your client's response when you presented our settlement proposal over a month ago.

All what you responded with : " Since we last spoke, I learned that the person responsible for legal matters has been out of the country."

So since that time , have you presented any settlement offer or suggestion to your client? I did not receive any response. Instead you are accusing me of terminating the negotiations.

I never stopped the process of negotiations, and I am willing to settle this matter, again in order to save myself and your client the extra unnecessary expenses.

I am coming back to Colorado Springs, on the 3rd of April, by the time I prepare an answer to your documents, which will be days, may be I will be able to send it out on the 7th or the 8th of April. If that is acceptable, please let me know.

Mean while do you want to settle this matter ?.if so please present me with your offer , and we will go from there.

Thanks for trying to understand my point of view, or my side of the story in this matter.

Sincerely,
George

George K. Zoorob, Ph.D,G.G.(GIA), N.J.A.
Tel: 719.633-5900
Fax: 719.633-5959
Cell: 719.964.4367

Subject: RE: settlement Proposal
Date: Thu, 27 Mar 2008 15:04:20 -0400
From: DBruso@CantorColburn.com
To: gkzoorob@hotmail.com

Mr. Zoorob,

Thank you for your e-mail.

We deny any suggestion of trickery or improper behavior. In particular, Amerifit never implied or agreed that your settlement offer somehow stayed or extended the time for you to respond to discovery. Such a result would be utterly contrary to my February 15, 2008, e-mail. Moreover, nothing in my February 27, 2008, e-mail states or implies otherwise. If you were unclear whether discovery was stayed, you should have asked. Instead, you engaged in bellicose and belligerent posturing.

4/11/2008

The fact remains that you explicitly threatened to terminate settlement negotiations if Amerifit did not respond by your February 28, 2008, deadline. I made it clear that your threats and posturing were not effective. I do not see any basis for you to assume that we would somehow extend the deadline based upon your attempt to threaten and intimidate our client.

The settlement negotiations are and have always been independent of your obligation to respond to discovery. I made this clear in my e-mails, and it remains the case.

Amerifit will consider your settlement offer. In the meantime, and based upon your travel schedule, we will extend the deadline for us to receive your responses from March 28, 2008, through and including April 1, 2008. If we do not receive them by then, we may take additional steps to preserve our client's rights.

Very truly yours,

DANIEL E. BRUSO
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